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REMARKS

Claims 14-39, 48, and 49 are pending in the application with claims 14, 17, and 29 amended herein and new claims 48 and 49 added herein. Claims 29-39 were previously withdrawn from consideration despite Applicant's traversal of the species restriction. It is not apparent from the Office Action whether the Office considered any of Applicant's three grounds for traversal. Applicant traversed on the grounds that 1) the species restriction was improper, 2) that the Office Action erred in associating only claims 14-28 with Species I, 3) and the Office Action erred in stating that no claim was generic. Page 2 of the present Office Action merely states that none of Applicant's three grounds for traversal were found persuasive "because the unpatentability of claim 14 does not necessarily imply the unpatentability of claim 29." The Office's reply does not bear any relation to one of the three grounds for traversal, much less constitute a reply to all of the three grounds.

Further, the Office's reply is irrelevant to a determination of whether the species restriction is proper. The unpatentability of a given claim not necessarily implying the unpatentability of another claim is exactly the circumstance that exists when a generic claim is present. That is, the unpatentability of a generic claim does not necessarily imply the unpatentability of a narrower claim within the genus. At least for such reason, it does not appear that the Office properly considered and responded to the three grounds for traversal. Even so, the Office made the restriction final.

Applicant herein amends claim 14, but asserts that claim 14 remains generic to claim 29. Given the amendment to claim 14, the genus defined by

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such claim now more clearly encompasses the subject matter of claim 29. Claim 29 is also amended herein, however, the amendment is not related to the statutory requirements of patentability and now more positively expresses limitations that were previously inherent in claim 29. The amendment to claim 29 is not for the purpose of narrowing and does not affectively narrow the scope of any claim. At least for reasons discussed above, the species restriction should be withdrawn.

Given the Office's apparent failure to fully consider and respond to Applicant's three grounds for traversal and the clear lack of a justification for a species restriction, Applicant herewith includes a 37 C.F.R. 1.144 Petition From Requirement for Restriction.

Applicant previously filed an IDS on September 24, 2003 including a three page Form PTO-1449 designated in the top right corner as Sheet 1 of 3, 2 of 3, and 3 of 3. All three pages are present in the Office's Image File Wrapper. Even so, Applicant received an initialed copy of sheet 1 of 3 and 2 of 3 without sheet 3 of 3. Instead, the Form PTO-1449 from a supplemental IDS later filed on January 16, 2004 was returned with a handwritten modification to the sheet numbering reading "Sheet 3 of 3" even though the original number was "Sheet 1 of 1." Applicant requests consideration of the references listed on the original "Sheet 3 of 3" filed in the September 24, 2003 IDS and return of the initialed form in the next Office Action.

Claims 14 and 15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yamazaki (US publication 2003/0010980). Applicant requests reconsideration.

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Amended claim 14 sets forth an electronic apparatus fabrication method that includes forming an insulative glass substrate containing aluminum oxycarbide and forming a layer including a semiconductive material over the substrate. Page 2 of the Office Action alleges that Yamazaki discloses each and every limitation of claim 14. However, Applicant asserts that Yamazaki fails to disclose an insulative glass substrate containing aluminum oxycarbide. At least for such reason, Yamazaki does not anticipate claim 14. Claim 15 depends from claim 14 and is not anticipated at least for such reason as well as for the additional limitations of such claims not disclosed.

Claims 16 and 20-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamazaki. Applicant requests reconsideration.

In addition to Yamazaki failing to disclose each and every limitation of claim 14, Applicant further asserts that Yamazaki fails to suggest every limitation of claim 14. At least for such reason, claim 14 is not obvious over Yamazaki. Claims 16 and 20-28 depend from claim 14 and are patentable at least for such reason as well as for the additional limitations of such claims not disclosed or suggested. For example, claim 16 sets forth that the semiconductive material layer is formed on and in contact with the insulative substrate. Page 3 of the Office Action states that it is "well-known" to form a semiconductor layer directly on an insulative substrate. It is not certain whether the Office relies upon Yamazaki to support such determination. To the extent that the Office relies upon Yamazaki, Applicant asserts that

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Yamazaki fails to suggest forming a semiconductive material layer on and in contact with an insulative glass substrate, as set forth in claim 16.

At least paragraph 82 of Yamazaki states that a blocking layer, such as blocking layer 201 in Fig. 10A of Yamazaki, is required to prevent impurity elements from diffusing into the semiconductor film. Removal of the blocking layer would render Yamazaki inoperable for its intended purpose.

Accordingly, no suggestion or motivation can be considered to exist to modify Yamazaki and form the semiconductor film on the glass substrate. As such, the Office's rejection is not based upon substantial evidence. At least for such reason, claim 16 is patentable over Yamazaki.

To the extent that the Office does not rely upon Yamazaki, rejection of claim 16 would be based upon teachings in the art only within the personal knowledge of the Examiner. As allowed by 37 C.F.R. 1.104(d)(2), Applicant hereby calls for support of the rejection by affidavit of the Examiner's personal knowledge or the submission of further art that can be reasonably combined to support the Office's rejection.

Also for example, claim 14 sets forth that the insulative substrate exhibits a CTE sufficiently close to a CTE of the semiconductive material layer such that a strain of less than 1% would exist. Page 3 of the Office Action alleges that the claimed CTE relationship and resulting strain of less than 1% is inherent. However, the mere fact that a certain thing may result from the circumstances of Yamazaki is not sufficient to establish inherency. In relying upon the theory of inherency, the Office must provide a basis in fact and/or technical reasoning reasonably supporting the determination that the

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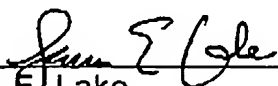
allegedly inherent characteristic necessarily flows from the teachings of Yamazaki. Applicant notes that Yamazaki does not include any discussion of CTE and there does not appear to be any reasonable basis for the Office's assumption that a strain of less than 1% will necessarily result. Even though Yamazaki discloses a glass substrate, CTE is known among those of ordinary skill potentially to vary greatly depending upon composition, even among glasses. Accordingly, the Office Action does not establish with substantial evidence that the subject matter of claim 20 necessarily results from Yamazaki.

Further for example, pages 3-4 of the Office Action state with regard to claims 23, 24, and 26-28 that the claimed features are "well-known." Since Yamazaki does not support such a conclusion, it appears that the rejection is based upon methods only within the personal knowledge of the Examiner. As allowed by 37 C.F.R. 1.104(d)(2) Applicant hereby calls for support of the rejection by affidavit of the Examiner's personal knowledge or the submission of further art that can be reasonably combined to support the Office's rejection.

Applicant herein establishes adequate reasons supporting patentability of claims 14-39, 48, and 49 and requests allowance of all pending claims in the next Office Action.

Respectfully submitted,

Dated: 01 Sep 2005

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